
15 U.S. Code § 1639c

Minimum standards for residential mortgage loans

(a) Ability to repay

(1) In general

In accordance with regulations prescribed by the Bureau, no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance (including mortgage guarantee insurance), and assessments.

(2) Multiple loans

If the creditor knows, or has reason to know, that 1 or more residential mortgage loans secured by the same dwelling will be made to the same consumer, the creditor shall make a reasonable and good faith determination, based on verified and documented information, that the consumer has a reasonable ability to repay the combined payments of all loans on the same dwelling according to the terms of those loans and all applicable taxes, insurance (including mortgage guarantee insurance), and assessments.

(3) Basis for determination

A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan. A creditor shall determine the ability of the consumer to repay using a payment schedule that fully amortizes the loan over the term of the loan.

(4) Income verification

A creditor making a residential mortgage loan shall verify amounts of income or assets that such creditor relies on to determine repayment ability, including expected income or assets, by reviewing the consumer's Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of the consumer's income or assets. In order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of—

- (A) Internal Revenue Service transcripts of tax returns; or
- (B) a method that quickly and effectively verifies income documentation by a third party subject to rules prescribed by the Bureau.

(5) Exemption

With respect to loans made, guaranteed, or insured by Federal departments or agencies identified in subsection (b)(3)(B)(ii), such departments or agencies may exempt refinancings under a streamlined

refinancing from this income verification requirement as long as the following conditions are met:

- (A) The consumer is not 30 days or more past due on the prior existing residential mortgage loan.
- (B) The refinancing does not increase the principal balance outstanding on the prior existing residential mortgage loan, except to the extent of fees and charges allowed by the department or agency making, guaranteeing, or insuring the refinancing.
- (C) Total points and fees (as defined in section 1602(aa)(4)¹¹ of this title, other than bona fide third party charges not retained by the mortgage originator, creditor, or an affiliate of the creditor or mortgage originator) payable in connection with the refinancing do not exceed 3 percent of the total new loan amount.
- (D) The interest rate on the refinanced loan is lower than the interest rate of the original loan, unless the borrower is refinancing from an adjustable rate to a fixed-rate loan, under guidelines that the department or agency shall establish for loans they make, guarantee, or issue.
- (E) The refinancing is subject to a payment schedule that will fully amortize the refinancing in accordance with the regulations prescribed by the department or agency making, guaranteeing, or insuring the refinancing.
- (F) The terms of the refinancing do not result in a balloon payment, as defined in subsection (b)(2)(A)(ii).
- (G) Both the residential mortgage loan being refinanced and the refinancing satisfy all requirements of the department or agency making, guaranteeing, or insuring the refinancing.

(6) Nonstandard loans

(A) Variable rate loans that defer repayment of any principal or interest

For purposes of determining, under this subsection, a consumer's ability to repay a variable rate residential mortgage loan that allows or requires the consumer to defer the repayment of any principal or interest, the creditor shall use a fully amortizing repayment schedule.

(B) Interest-only loans

For purposes of determining, under this subsection, a consumer's ability to repay a residential mortgage loan that permits or requires the payment of interest only, the creditor shall use the payment amount required to amortize the loan by its final maturity.

(C) Calculation for negative amortization

In making any determination under this subsection, a creditor shall also take into consideration any balance increase that may accrue from any negative amortization provision.

(D) Calculation process

For purposes of making any determination under this subsection, a creditor shall calculate the monthly payment amount for principal and interest on any residential mortgage loan by assuming—

- (i) the loan proceeds are fully disbursed on the date of the consummation of the loan;
- (ii) the loan is to be repaid in substantially equal monthly amortizing payments for principal and interest over the entire term of the loan with no balloon payment, unless the loan contract requires more rapid repayment (including balloon payment), in which case the calculation shall be made (I) in accordance with regulations prescribed by the Bureau, with respect to any loan which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date the interest rate is set, by 1.5 or more percentage points for a first lien residential mortgage loan; and by 3.5 or more percentage points for a subordinate lien residential mortgage loan; or (II) using the contract's repayment schedule, with respect to a loan which has an annual percentage rate, as of the date the interest rate is set, that is at least 1.5 percentage points above the average prime offer rate for a first lien

residential mortgage loan; and 3.5 percentage points above the average prime offer rate for a subordinate lien residential mortgage loan; and

(iii) the interest rate over the entire term of the loan is a fixed rate equal to the fully indexed rate at the time of the loan closing, without considering the introductory rate.

(E) Refinance of hybrid loans with current lender

In considering any application for refinancing an existing hybrid loan by the creditor into a standard loan to be made by the same creditor in any case in which there would be a reduction in monthly payment and the mortgagor has not been delinquent on any payment on the existing hybrid loan, the creditor may—

(i) consider the mortgagor’s good standing on the existing mortgage;

(ii) consider if the extension of new credit would prevent a likely default should the original mortgage reset and give such concerns a higher priority as an acceptable underwriting practice; and

(iii) offer rate discounts and other favorable terms to such mortgagor that would be available to new customers with high credit ratings based on such underwriting practice.

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